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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	76716381
LAW OFFICE ASSIGNED	LAW OFFICE 109
MARK SECTION	
MARK FILE NAME	http://tmng-al.uspto.gov/resting2/api/img/76716381/large
LITERAL ELEMENT	AMERICAN WOODMARK CORPORATION
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
ARGUMENT(S)	
Please see the actual argument text attached within the Evidence section.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_5024234250-20160203155154008077 . OODMARK CORPORATION Respo
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\767\163\76716381\xml23\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\767\163\76716381\xml23\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\767\163\76716381\xml23\RFR0004.JPG
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	041
DESCRIPTION	

Providing online non-downloadable publications, namely, written articles and press releases featuring cabinet information and developments

FIRST USE ANYWHERE DATE	At least as early as 03/00/2015
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2015
FILING BASIS	Section 1(b)

GOODS AND/OR SERVICES SECTION (proposed)

INTERNATIONAL CLASS	041
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TRACKED TEXT DESCRIPTION

~~Providing online non-downloadable publications, namely, written articles and press releases featuring cabinet information and developments;~~ [Providing online non-downloadable publications, namely, written articles for company information and developments](#)

FINAL DESCRIPTION

Providing online non-downloadable publications, namely, written articles featuring cabinet information and developments

FIRST USE ANYWHERE DATE	At least as early as 03/00/2015
FIRST USE IN COMMERCE DATE	At least as early as 03/00/2015
FILING BASIS	Section 1(b)

CORRESPONDENCE SECTION

ORIGINAL ADDRESS	ANGELA T. ISABELL Gavin Law Offices, PLC 2229 PUMP RD RICHMOND Virginia US 23233-3507
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NEW CORRESPONDENCE SECTION

NAME	ANGELA T. ISABELL
FIRM NAME	Gavin Law Offices, PLC
STREET	2229 PUMP RD
CITY	RICHMOND
STATE	Virginia
ZIP/POSTAL CODE	23233-3507

COUNTRY	United States
PHONE	(804) 784-4427
FAX	(804) 482-2964
EMAIL	pgavin@gavinlawoffices.com;smartinez@gavinlawoffices.com; iaradi@gavinlawoffic rvanorden@gavinlawoffices.com
AUTHORIZED EMAIL COMMUNICATION	Yes
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Stephanie Martinez/
SIGNATORY'S NAME	Stephanie Martinez
SIGNATORY'S POSITION	Associate of Attorney of Record, Virginia Bar Member
DATE SIGNED	02/03/2016
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Feb 03 16:04:50 EST 2016
TEAS STAMP	USPTO/RFR-XX.XXX.XX.XXX-2 0160203160450162522-76716 381-550e9c5393f8243997d8c 71d7d403acc4a771c9d55e117 519a64118f4165ef90-N/A-N/ A-20160203155154008077

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PTO Form 1960 (Rev 10/2011)

OMB No. 0651-0050 (Exp 07/31/2017)

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **76716381** AMERICAN WOODMARK C O R P O R A T I O N (Stylized and/or

with Design, see <http://tmng-al.uspto.gov/resting2/api/img/76716381/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Please see the actual argument text attached within the Evidence section.

EVIDENCE

Original PDF file:

[evi_5024234250-20160203155154008077_. OODMARK CORPORATION Response to Office Action](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 041 for Providing online non-downloadable publications, namely, written articles and press releases featuring cabinetry information and company information and developments

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 041, the mark was first used at least as early as 03/00/2015 and first used in commerce at least as early as 03/00/2015 .

Proposed:

Tracked Text Description: ~~Providing online non-downloadable publications, namely, written articles and press releases featuring cabinetry information and company information and developments;~~ [Providing online non-downloadable publications, namely, written articles featuring cabinetry information and company information and developments](#)

Class 041 for Providing online non-downloadable publications, namely, written articles featuring cabinetry information and company information and developments

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application

filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. **For a certification mark application:** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

In International Class 041, the mark was first used at least as early as 03/00/2015 . and first used in commerce at least as early as 03/00/2015 .

CORRESPONDENCE ADDRESS CHANGE

Applicant proposes to amend the following:

Current:

ANGELA T. ISABELL
Gavin Law Offices, PLC
2229 PUMP RD
RICHMOND
Virginia
US
23233-3507

Proposed:

ANGELA T. ISABELL of Gavin Law Offices, PLC, having an address of
2229 PUMP RD RICHMOND, Virginia 23233-3507
United States
pgavin@gavinlawoffices.com;smartinez@gavinlawoffices.com; iaradi@gavinlawoffices.com;
mwitzel@gavinlawoffices.com; rvanorden@gavinlawoffices.com
(804) 784-4427
(804) 482-2964

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Stephanie Martinez/ Date: 02/03/2016

Signatory's Name: Stephanie Martinez

Signatory's Position: Associate of Attorney of Record, Virginia Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney

appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Mailing Address: ANGELA T. ISABELL
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RICHMOND, Virginia 23233-3507

Serial Number: 76716381

Internet Transmission Date: Wed Feb 03 16:04:50 EST 2016

TEAS Stamp: USPTO/RFR-XX.XXX.XX.XXX-2016020316045016

2522-76716381-550e9c5393f8243997d8c71d7d

403acc4a771c9d55e117519a64118f4165ef90-N

/A-N/A-20160203155154008077

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK EXAMINING OPERATION**

REQUEST FOR RECONSIDERATION

FILING DATE: May 20, 2014

SERIAL NUMBER: 76/716,381

MARK: AMERICAN WOODMARK CORPORATION
(Stylized & Design)

APPLICANT'S NAME: American Woodmark Corporation

MAILING DATE OF ACTION: October 13, 2015

APPLICANT'S ATTORNEYS: Stephanie Martinez
Pamela C. Gavin
Gavin Law Offices, PLC
2229 Pump Road,
Richmond, Virginia 23233

EXAMINING ATTORNEY: Scott Bibb/Law Office 109

INTRODUCTION

American Woodmark Corporation ("Applicant") filed the present application to register the mark AMERICAN WOODMARK CORPORATION (Stylized & Design) ("Applicant's Mark" or the "Mark") based on Applicant's intent to use the Mark in commerce to identify certain services in International Classes 41. After an initial Office Action and Examiner's Amendment, Applicant agreed to an amended services identification of: *providing online non-downloadable publications, namely, written articles and press releases of others featuring cabinetry information and company information and developments.*

On April 10, 2015, Applicant filed a Statement of Use and Request for Extension of Time to File a Statement of Use. On June 11, 2015, the Examining Attorney ("Examiner") for the United States Patent and Trademark Office issued an Office Action denying registration based

on the Examiner's belief that Applicant's specimen was insufficient. On August 31, 2015, Examiner and Applicant's attorney spoke by telephone regarding the issued Office Action, at which time the Examiner raised a new issue concerning Applicant's services identification. On September 1, 2015, Applicant filed a Response to the June 11, 2015 Office Action, addressing the Examiner's concern regarding Applicant's specimen and amending Applicant's services identification to: *providing online non-downloadable publications, namely, written articles and press releases featuring cabinetry information and company information and developments.*

On October 12, 2015, the Examiner issued a new Office Action again denying registration based on the Examiner's belief that Applicant's amended services identification exceeded the scope of the identification in the Notice of Allowance. Applicant now files its Request for Reconsideration pursuant to 37 C.F.R. § 2.64(b). Of even date, Applicant is filing a Notice of Appeal to the Trademark Trial and Appeal Board.

AMENDED SERVICES DESCRIPTION

The Applicant wishes to further amend the identified services by deleting the services description in its entirety and replacing it with: *providing online non-downloadable publications, namely, written articles featuring cabinetry information and company information and developments.*

In connection therewith, Applicant submits the following:

STATEMENT IN SUPPORT OF REGISTRATION

Applicant respectfully disagrees with the Examiner's finding that Applicant's services identification, as amended, is broader than the services identified in the Notice of Allowance. The services identified in the Notice of Allowance are "written articles" and "press releases of others." Applicant respectfully submits that the words "of others" in the identified services

modifies only “press releases,” and not “written articles.” This is made clear by the absence of any language tying the “of others” modifier to “written articles.” For example, the services identification did not include language to the effect of “written articles and press releases, each provided by others.” Applicant has now removed the words “press releases of others” from its services identification. Applicant’s removal of the language “press releases of others” appropriately narrows the services identified in the Notice of Allowance. 37 C.F.R. §2.71(a); see TMEP §§ 1402.06 et seq., 1402.07. Applicant therefore respectfully requests that Applicant’s Mark be allowed to pass to registration.

CONCLUSION

On the basis of the foregoing, Applicant respectfully submits that Applicant has resolved all outstanding issues with respect to Applicant’s Mark. Accordingly, Applicant requests the Examining Attorney to pass the Mark to registration.

Respectfully submitted,

By: _____


Stephanie Martinez
Counsel for Applicant
American Woodmark Corporation

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